UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,861	12/11/2003	Frederic Hayem	16135US02	8099

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EXAMINER
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ART UNIT	PAPER NUMBER
2617	

MAIL DATE	DELIVERY MODE
12/15/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Advisory Action ***Before the Filing of an Appeal Brief***	*10/733,861*	HAYEM ET AL.
	Examiner	**Art Unit**	
	FRED A. CASCA	2617	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>24 November 2008</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

  a) ☐ The period for reply expires _____months from the mailing date of the final rejection.

  b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

      Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

    (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

    (b)☐ They raise the issue of new matter (see NOTE below);

    (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

    (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

        NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

    The status of the claim(s) is (or will be) as follows:

    Claim(s) allowed: _____.

    Claim(s) objected to: _____.

    Claim(s) rejected: _____.

    Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>see below.</u>

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

/VINCENT P. HARPER/
Supervisory Patent Examiner, Art Unit 2617

Applicant's arguments, filed 24 November 24 2008, with reference to the rejection of claim 30 under 35 U.S.C. 112, overcome the rejection of claim 30 under 35 U.S.C. 112 , therefore, the rejection of claim 30 under 35 U.S.C. 112, first paragraph is withdrawn. Rejection of claims 1-7, 12-18 and 27-30 under 35 USC 103(a) is maintained.

Applicant's arguments submitted on November 24, 2008, have been considered but they are not persuasive.
On page 17 of applicant's arguments, applicant basically argues that Kransmo does not disclose or suggest "switching between bearers … [while] maintaining bearer connections during said switching." The examiner respectfully disagrees.

In mobile communication systems, a person of ordinary skill in the art would know that the process of switching a communication session from one network to another network is known as "handoff" or "handover."
Therefore, the limitation "enabling switching between bearers" is simply interpreted as handover between different networks employing different protocols, for example, switching (handover) from a 3G communication system protocol to a 2G communication system protocol.
Kransmo discloses handover of a dual-mode wireless terminal between two different networks. Kransmo further teaches switching (handover) from a 3G communication system to a 2G communication system where the 3G communication system utilizes 3G communication protocols and the 2G communication system utilizes 2G communication protocols (see Kransmo col. 1, lines 50-67 and col. 2, lines 1-67). Thus, when the dual-mode wireless device of Kransmo is switched (handed over) from a 3G network to a 2G network, the protocols (bearers) are also switched from 3G protocol to 2G protocol so that the dual-mode device can operate in the 2G network. Thus, Kransmo's multimode processor enables switching between bearers.

The limitation "maintaining bearer connections during switching" is also disclosed by Kransmo.
The dual-mode wireless device of Kransmo performs handover (switching) from a 3G network to a 2G network and a person of ordinary skill in the art would know that a handover process is designed such that the switching between networks takes place without interrupting or dropping of the call (see definition of handover in the Office Action dated 09/30/2008), thus the connection to networks is maintained during the handover (switching).
Further, a person of ordinary skill in the art would know that 3G communication networks use soft handover. Soft handover is described in 3G TR 25.922 v.3.1.0 (200-03) at Chapter 5.1.4 and also in textbook by Jon W. Mark and Weihua Zhuang (ISBN: 0-13-040905-7), page 211. There, soft handoff (soft handover) is described as a handover in which the mobile device can simultaneously communicate with several networks. Thus, during the soft handover (switching), the dual-mode device of Kransmo can have simultaneous connections to both 3G and 2G networks and with their respective protocols.
Further, the limitation "during switching" is not clearly defined. The limitation "during switching" could be from the moment that a 2G network with stronger signal strength is detected until handover to 2G network is completed, or it could be the instant that the actual switching (handover) takes place.
Therefore, Kransmo's teachings of handover from a 3G network to a 2G network reads on the limitations, "enabling switching between bearers" and "maintaining bearer connections during said switching."

Applicant's arguments with respect to the rejection of claim 27-28 have been considered, but they are not persuasive.
Applicant basically argues that Neumann does not disclose "a first bearer-specific module or implementing bearer-specific stack functions related to said first wireless communications protocol." The examiner respectfully disagrees. Neumann's paragraphs 20, 25 and 29 clearly read on the bearer-specific module or implementing bearer-specific stack functions as claimed. Please see the Final Office Action dated 09/30/2008 for more details.
Applicant further argues that the combination of Neumann/Perlman does not disclose "a second buffer" and "a first buffer." The examiner respectfully disagrees. Neumann clearly discloses memory units (buffers) within each one of the processors (Figures 2-3, 6A, 6B, 8A and 8B and the corresponding paragraphs, particularly figure 2, "shared memory"). A person of ordinary skill in the art would be able to arrange them in the exact format as claimed by applicant. Additionally, the claimed invention is not about buffers and/or how the buffer can be placed between different elements.
Applicant's arguments with respect to claim 29 and 30 have been considered but they are not persuasive. Applicant's arguments with respect to claims 29 and 30 address the limitation "first bearer-specific module for implementing bear-specific stack functions related to said first wireless communication protocol." The examiner has already responded to this argument in response to applicant's arguments with respect to claim 27 above. See examiner's comments with respect to claim 27 and also the rejections of claims 1, 27 and 29 in the Office Action dated 09/30/2008. Further, applicant's arguments with respect to limitation "enabling … during said switch" has already been addressed by the examiner above in response to applicant's arguments with respect to claim 1.